

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1

KLEHR HARRISON HARVEY

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In re:

RITE AID CORPORATION, et al,

Debtors

Case No.: 23-18993-MBK

Judge: Michael B. Kaplan

Chapter: 11

**RESERVATION OF RIGHTS OF PENA REALTY HOLDINGS COMPANY, LLC
TO THE DEBTORS' THIRD AMENDED PLAN SUPPLEMENT**

Pena Realty Holdings Company, LLC (“Landlord”), by and through its undersigned counsel, files this reservation of rights (the “Reservation of Rights”) to the Notice of Filing of Third Amended Plan Supplement and, in support thereof, respectfully represents as follows:

1. On October 15, 2023 (the “Petition Date”), Rite Aid Corporation and certain affiliated entities (collectively, the “Debtors”) each filed voluntary petitions for relief pursuant to Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). Since the Petition Date, the Debtors have continued to manage their businesses as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

2. On November 2, 2023, the Office of the United States Trustee appointed an Official Committee of Unsecured Creditors.

3. Prior to the Petition Date, Rite Aid of Connecticut, Inc. (“Tenant”) entered into a lease agreement dated November 15, 1993 (the “Original Lease”) with Landlord’s predecessor-in-interest, 1050 East Main Street Corp., for that certain real property and improvements located

thereon at East Mail and Arctic Streets in Bridgeport Connecticut (as described in greater detail in the Original Lease, the “Premises”). The Original Lease was amended by a First Amendment to Lease dated February 21, 2005 and entered into between Landlord and Tenant; an Amendment to Lease entered into on March 19, 2014 between Landlord and Tenant; and a Third Amendment to Lease entered into on June 28, 2019 (collectively with the Original Lease, the “Lease”).

4. On November 20, 2023, this Court entered an Order (i) Authorizing and Approving Procedures to Reject or Assume Executory Contracts and Unexpired Leases and (ii) Granting Related Relief.

5. On January 29, 2024, this Court entered an Amended Final Order (i) Authorizing and Approving the Conduct of Store Closing Sales, With Such Sales to Be Free and Clear of All Liens, Claims, and Encumbrances and (ii) Granting Related Relief.

6. On April 2, 2024, the Debtors filed the Second Amended Joint Plan (the “Plan”) which provides, among other things, that certain unexpired leases will be assumed under and in connection with the Plan pursuant to Sections 365 and 1123 of the Bankruptcy Code.

7. On April 8, 2024, the Debtors filed a Plan Supplement for the Second Amended Joint Chapter 11 Plan of Reorganization of Rite Aid Corporation and its Debtor Affiliates (the “Plan Supplement”). The Lease was expressly identified in the Plan Supplement as a lease that the Debtors were proposing to assume pursuant to the Plan. See Plan Supplement, p. 38, Line 433.

8. On April 9, 2024, the Debtors filed an Amended Plan Supplement for the Plan (the “Second Plan Supplement”). The Lease was again expressly identified in the Second Plan Supplement as a lease that the Debtors were proposing to assume pursuant to the Plan. See Second Plan Supplement, p. 137, Line 433.

9. On April 26, 2024, the Debtors filed a Notice of Additional Closing Stores (the “Notice of Closing”). Pursuant to the Notice of Closing, the Debtors notified Landlord that the store located on the Premises would be imminently closing.

10. On May 13, 2024, the Debtors filed the Third Amended Plan Supplement for the Plan (the “Third Plan Supplement”) that identifies those leases that the Debtors are proposing to assume pursuant to the Plan. With respect to the Lease specifically, and despite the filing of the Notice of Closing identifying the Premises as a location that would be imminently closing, the Third Notice indicates that the Lease will be assumed pursuant to the Plan and reflects a cure amount of \$0.00. See Third Notice, p. 35, Line 433.

11. Upon inquiry to the Debtors’ counsel, Landlord was advised that the Lease was included in the Third Plan Supplement because the Debtors may later determine to assume and assign the Lease to a yet-to-be-identified third party (the “Third Party”).

12. Landlord presently has insufficient information to determine whether any proposed assignment would violate any proviso of either the Lease or the Bankruptcy Code including, but not limited to, whether any future cure amount may be due and owing as a result of any payment or other defaults that may occur and be continuing under the Lease and/or whether adequate assurance of future performance will be provided by the Debtors or the Third Party and/or sufficient for the purposes and requirements of the Bankruptcy Code as required by Section 365(f)(2)(B).

13. Accordingly, Landlord files this Reservation of Rights to reserve and preserve all of its rights and remedies with respect to any further treatment of the Lease, none of which are waived, including, but not limited to, with respect to any cure that may arise and/or become due and owing under the Lease and/or any proposed assignment to a Third Party.

WHEREFORE, Landlord respectfully reserves all its rights and remedies with respect to the assumption and potential assignment of the Lease to any Third Party as set forth herein.

Respectfully submitted:

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Date: May 28, 2024

CERTIFICATE OF SERVICE

I, Corinne Samler Brennan, Esquire, certify that on May 28, 2024, I caused the foregoing Reservation of Rights of Pena Realty Holdings Company, LLC to the Debtors' Third Amended Plan Supplement to be served by electronic notice through the CM/ECF System of the United States Bankruptcy Court for the District of New Jersey on all those parties entitled to receive electronic service. I further certify that I caused a true and correct copy of the foregoing to be served via U.S. Mail, postage prepaid, upon the following:

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